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BEFORE THE ARIZONA CORPORATION COMMISSION

GARY PIERCE
Chairman
BOB STUMP
Commissioner
SANDRA D. KENNEDY
Commissioner
PAUL NEWMAN
Commissioner
BRENDA BURNS
Commissioner

Arizona Corporation Commission

DOCKETED

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IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES, LLC DBA
JOHNSON UTILITIES COMPANY FOR AN
INCREASE IN ITS WATER AND
WASTEWATER RATES

DOCKET NO. WS-02987A-08-0180

DECISION NO. 72634ORDER

Open Meeting
October 11 and 12, 2011
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT**A. Introduction**

1. On August 25, 2011, pursuant to Decision No. 71854 (August 25, 2010), Johnson Utilities, LLC dba Johnson Utilities Company ("Johnson" or "Company") filed with the Arizona Corporation Commission ("Commission") the Company's proposed Central Arizona Groundwater Replenishment District ("CAGRD") adjustor fees for the Phoenix and Pinal Active Management Areas ("AMAs").

2. Decision No. 71854 authorized the Company to implement an adjustor mechanism, subject to certain conditions, to recover the costs paid to the CAGRD for replenishment of excess groundwater.

3. The conditions require the Company to submit, by August 25 of each year, for Commission consideration, its proposed CAGRD fees for the next twelve-month period (along

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...

1 with documentation from the relevant state agencies to support the calculations), to apply to all
2 water sold after October 1.¹

3 4. Accordingly, the Company made the instant filing.

4 **B. Background**

5 5. The CAGR D was established by the Arizona legislature to serve as a groundwater
6 replenishment entity for its members and provides a mechanism for designated water supply
7 providers such as Johnson to demonstrate a 100-year water supply.

8 6. Members pay the CAGR D to replenish any groundwater pumped by the member that
9 exceeds the specified pumping limits.

10 7. The CAGR D is recognized as an important tool in Arizona's groundwater conservation
11 efforts.

12 **C. Annual Membership Dues**

13 8. Subsequent to the implementation of the Company's initial adjustor, the Arizona
14 legislature enacted Arizona Revised Statutes § 48-3779, which authorized the CAGR D to charge
15 annual membership dues ("AMDs") "on all parcels of member lands and on all municipal
16 providers having a member service area," in addition to the charges for replenishment of excess
17 groundwater.

18 9. The sole purpose of the AMDs is "to pay costs associated with the acquisition, lease or
19 exchange of water or water rights and development of infrastructure necessary for the district to
20 perform its replenishment obligations."²

21 10. On May 5, 2011, a meeting was held at the Commission's offices, attended by
22 members of CAGR D staff, Commission Utilities Division ("Staff"), Sahuarita Water Company
23 LLC ("Sahuarita") and Johnson.³ CAGR D staff presented the AMD policy, the methodology in
24 which it is calculated and the timing of the charges (the AMDs are included as a line item on the
25 annual invoice, along with the assessment for excess groundwater). Also discussed were ways that
26 a water provider could reduce the amount of AMDs and replenishment taxes owed, such as by
27 securing its own renewable water supplies for use instead of groundwater.

28 ¹ Dec. No. 71854 at 38-39.

² Arizona Revised Statutes § 48-3779(B).

³ As designated providers with member service areas, both Johnson and Sahuarita are subject to the newly-imposed membership dues.

11. As noted by the Commission in Decision No. 71854 regarding approval of the replenishment assessment, "Conservation and wise stewardship of increasingly stressed water supplies is a matter of paramount concern in Arizona, and we believe that it is important to send appropriate signals to water companies regarding their duty to fully engage in conservation programs administered by the ADWR."⁴ And, like the already-approved CAGR D fees, the AMDs are not discretionary for the designated provider.

12. Therefore, Staff concludes that the inclusion of the AMDs in the calculation of the CAGR D adjustor is appropriate and in the public interest.

D. Calculation of the CAGR D Adjustor Fees

13. Condition No. 6 ordered that the adjustor fees be calculated as follows: "The total CAGR D fees for the most current year in the Phoenix AMA shall be divided by the gallons sold in that year to determine a CAGR D fee per 1,000 gallons. Similarly, the total CAGR D fees for the most current year in the Pinal AMA shall be divided by the gallons sold in that year to determine a CAGR D fee per 1,000 gallons."⁵

14. Condition Nos. 2 and 3 ordered that the Company "place all CAGR D monies collected from customers in a separate, interest bearing account ("CAGR D Account")," only to be withdrawn for the annual payment to the CAGR D, due on October 15 of each year.

15. In addition, although the order did not contain an explicit provision for a true-up, the parties were in agreement that such an annual true-up would occur at the time of the adjustor reset each year.

16. The Company proposes a rate of \$1.134 per thousand gallons ("kgal") for its customers in the Phoenix AMA and a rate \$0.259 per kgal for the Pinal AMA.

17. Staff has reviewed the Company's proposed calculations and the supporting documentation submitted with its request. Staff disagrees in several respects with the ...

⁴ Arizona Revised Statutes § 48-3779(B).

⁵ As designated providers with member service areas, both Johnson and Sahuarita Water Company LLC are subject to the newly-imposed membership dues.

1 methodology employed by the Company to calculate the true-up and, hence, also disagrees with
2 the resulting proposed adjustor rates.

3 18. First, in reporting the amount of fees collected, the Company included only the
4 water billed as of July 31, 2011.⁶ Unfortunately, that methodology fails to account for the entire
5 twelve-month period of collections, which continues through September 30, 2011. Additionally,
6 rather than reporting the actual amount of money collected during the period, the Company instead
7 reported total billings less write-offs, which includes fees that were billed but not actually
8 collected. Further, the Company neglected to include the interest earned on the CAGRD account.
9 The end result is an understatement of the total fees collected for the period and an inaccurate true-
10 up amount.

11 19. Second, rather than comparing the amount of fees collected to the amount paid to
12 CAGRD in 2010 (for 2009), the amount on which the present adjustor was based, the Company
13 instead compares the fees collected to the charges currently being assessed by the CAGRD for
14 2010, which are due in October 2011, and which are used to calculate the new adjustor going
15 forward. Again, the result is an inaccurate true-up amount.

16 20. Consequently, Staff provided its calculations and recommended rates for Johnson's
17 CAGRD adjustor fees, as described below.

18 Phoenix AMA

19 *True-up*

20 21. The CAGRD invoice to Johnson for the 2009 annual replenishment assessment for
21 the Phoenix AMA was \$1,637,956.

22 22. Through additional discovery, Staff determined that, as of July 31, 2011, the
23 Company had collected CAGRD fees of \$1,271,933 for the Phoenix AMA.⁷ Staff calculated an
24

25 ⁶ Staff notes that, in the exhibit labeled "General Ledger" in the Company's application, the individual
26 entries identified for each AMA total the balances used in the Company's adjustor calculations; however,
27 the reported total of the credit entries, and the resulting reported account balance overall, appear to contain
a mathematical error. (The Company reports an ending balance overall of \$1,398,605.60; but the individual
entries, as well as the sums of the balances for each AMA total 1,398,591.40).

28 ⁷ Calculated as total amount billed less amounts not collected, which, combined with the calculations for the
Pinal AMA, reconciles to the Company's bank statement as of 7/31/11.

estimate for the funds still to be collected for water sold in August and September by applying the present adjustor rate of \$0.747 per kgal to the Company's water sales during these same months in 2010.⁸

23. This true-up calculation indicates an over-collection of approximately \$84,778, as follows:

A	2009 CAGRD invoice	\$1,637,956	
B	Collections as of 7/31/11 (as reported)	1,271,933	
C	August collections (estimated)	92,226	246,923 kgal ⁹ x \$0.747/kgal x 50%
D	September collections (estimated)	180,513	241,651 kgal ¹⁰ x \$0.747/kgal
E	October collections (estimated)	176,614	236,431 kgal ¹¹ x \$0.747/kgal
F	Interest (estimated through 9/30/11)	<u>1,448</u>	
G	Total collections for 2009	1,722,734	
H	2009 CAGRD over/(under) collected [G-A]	\$84,778	

Adjustor Fee

24. The CAGRD invoice to Johnson for 2010 for the Phoenix AMA indicates total fees and dues of \$1,921,311.

25. The Company's 2010 annual report as submitted to ADWR indicates annual water sales of 6,742.37 af, or 2,197,008 kgal.¹²

26. Staff's calculation of the new CAGRD adjustor fee is shown below. The fee for a customer in the Phoenix AMA is \$0.84 per kgal.

A	2010 CAGRD invoice	\$1,921,311
B	Less over-collection for 2009	<u>84,778</u>
C	Amount to be recovered [A - B]	1,836,533
D	Total kgal sold in 2010	2,197,008
E	Charge per kgal [C ÷ D]	\$0.84

Pinal AMA

True-up

27. The CAGRD invoice to Johnson for the 2009 annual replenishment assessment for the Pinal AMA was \$58,320.

⁸ Staff also includes an estimate for water sold in July that is not yet billed as of 7/31/11.

⁹ Per the Company's 2010 annual report to the Arizona Department of Water Resources ("ADWR"): 757.78 acre-feet ("af") sold x 325.851 kgal/af = 246,923 kgal sold.

¹⁰ Per the Company's 2010 annual report to ADWR: 741.6 af sold x 325.851 kgal/af = 241,651 kgal sold.

¹¹ Per the Company's 2010 annual report to ADWR: 725.6 af sold x 325.851 kgal/af = 236,431 kgal sold.

¹² 6,742.37 a-f x 325.851 kgal/af = 2,197,008 kgal.

28. Through additional discovery, Staff determined that, as of July 31, 2011, the Company had collected CAGR D fees of \$47,025 for the Pinal AMA.¹³ Staff calculated an estimate for the funds still to be collected for the water sold in August and September by applying the present adjustor rate of \$0.252 per kgal to the Company's water sales during these same months in 2010.¹⁴ This true-up calculation indicates an over-collection of approximately \$3,872, as follows:

A	2009 CAGR D invoice	\$58,320	
B	Collections as of 7/31/11 (as reported)	45,720	
C	Additional July collections (estimated)	3,342	26,528 kgal ¹⁵ x \$0.252/kgal x 50%
D	August collections (estimated)	6,682	26,514 kgal ¹⁶ x \$0.252/kgal
E	September collections (estimated)	<u>6,448</u>	25,586 kgal ¹⁷ x \$0.252/kgal
F	Total collections for 2009	62,192	
G	2009 CAGR D over/(under) collected [F-A]	\$3,872	

Adjustor Fee

29. The CAGR D invoice to Johnson for 2010 for the Pinal AMA indicates total fees and dues of \$53,963. The Company's 2010 annual report as submitted to ADWR indicates annual water sales of 721.29 af, or 235,033 kgal.¹⁸

30. Staff's calculation of the new CAGR D adjustor fee is shown below. The fee for a customer in the Pinal AMA is \$0.21 per kgal.

A	2010 CAGR D invoice	\$53,963
B	Less over-collection for 2009	<u>3,872</u>
C	Amount to be recovered [A - B]	50,091
D	Total kgal sold in 2010	235,033
E	Charge per kgal [C ÷ D]	\$0.21

¹³ Calculated as total amount billed less amounts not collected, which, combined with the calculations for the Phoenix AMA, reconciles to the Company's bank statement as of 7/31/11.

¹⁴ Staff also includes an estimate for water sold in July that is not yet billed as of 7/31/11.

¹⁵ Per the Company's 2010 annual report to ADWR: 81.41 af sold x 325.851 kgal/af = 26,528 kgal sold.

¹⁶ Per the Company's 2010 annual report to ADWR: 81.37 af sold x 325.851 kgal/af = 26,514 kgal sold.

¹⁷ Per the Company's 2010 annual report to ADWR: 78.52 af sold x 325.851 kgal/af = 25,586 kgal sold.

¹⁸ 721.29 af x 325.851 kgal/af = 235,033 kgal.

1 **E. Filing Dates**

2 31. The conditions set forth in Decision No. 71854 established certain dates regarding
3 the CAGR D adjustor. As previously noted, the Company is required to file for its annual adjustor
4 re-set by August 25 each year and the new adjustor rate is applicable to all water sold after October
5 1. Additionally, Condition No. 4 requires the Company to file a semi-annual report due during the
6 last week of October and the last week of April of each year, detailing the CAGR D fees collected
7 and assessments paid.¹⁹

8 32. Since the adjustor was a newly-created mechanism for both Sahuarita and Johnson,
9 the current reset applications are the first to be submitted. Upon review of the submissions, Staff
10 now has some concerns regarding the appropriateness of the filing dates. Staff originally
11 recommended the August 25 date to correspond to the CAGR D's invoicing of its members.
12 However, as is apparent from the calculations, filing on that date requires the Company to estimate
13 several months of collections and essentially necessitates a "true-up" of the true-up in the
14 following year. Also, it may be more efficient to time the filing of the semiannual report to
15 coincide with the reset filing.

16 33. Therefore, Staff intends to meet with both Sahuarita and Johnson to discuss
17 alternatives that might streamline the process and eliminate the use of estimates in the calculations.
18 If it is determined that changes to the conditions in the original order are appropriate, Staff will
19 bring those recommendations to the Commission at a later date.

20 **F. Conclusions and Recommendations**

21 34. Staff concludes that the Company has duly filed the appropriate request to revise
22 the CAGR D adjustor fees, as required by Decision No. 71854.

23 35. Staff concludes that inclusion of the AMDs in the calculation of the CAGR D
24 adjustor fees is appropriate.

25 36. Staff recommends approval of the CAGR D adjustor fees as described herein.

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28 ¹⁹ Dec. No. 71854 at 38.

40. We find that Staff's conclusions and recommendations are reasonable and should be adopted.

4. It is in the public interest to approve the Company's request for implementation of the CAGR adjustor fees as discussed herein.

IT IS FURTHER ORDERED that the CAGR adjustor fees for Johnson Utilities, LLC dba Johnson Utilities Company shall be \$0.84 for the Phoenix AMA and \$0.21 for the Pinal AMA.

...


1 IT IS FURTHER ORDERED that Johnson Utilities, LLC dba Johnson Utilities Company
2 docket with the Commission as a compliance matter, within 7 days of the effective date of this
3 Decision, a CAGR adjustor fee tariff consistent with the rates approved herein.

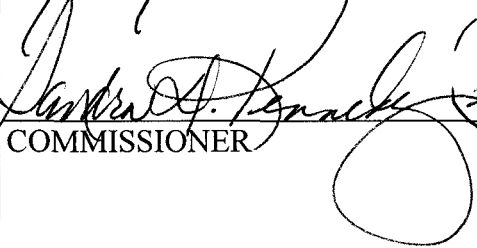
4 IT IS FURTHER ORDERED that Johnson Utilities, LLC dba Johnson Utilities Company
5 shall notify its customers of the CAGR adjustor fees approved herein within 30 days of the
6 effective date of this Decision.

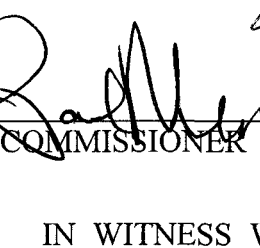
7 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

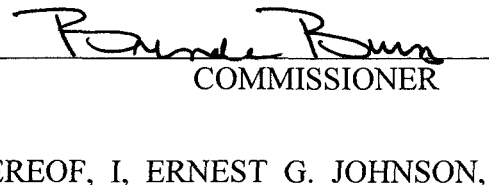
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9 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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11 CHAIRMAN

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11 COMMISSIONER

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13 COMMISSIONER

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13 COMMISSIONER

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14 COMMISSIONER

15 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
16 Executive Director of the Arizona Corporation
17 Commission, have hereunto, set my hand and caused the
18 official seal of this Commission to be affixed at the
19 Capitol, in the City of Phoenix, this 14th day
20 of October, 2011.

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21 ERNEST G. JOHNSON
22 EXECUTIVE DIRECTOR

22 DISSENT: _____

24 DISSENT: _____

25 SMO:NLS:lhmr\RM
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